

REMARKS

Claims 1 and 3-11 remain in the application with claims 1 and 5-11 having been amended hereby and claims 13-15 having been cancelled, without prejudice or disclaimer.

The cancellation of claims 13-15 renders moot the rejection thereof under 35 USC 102(b).

Reconsideration is respectfully requested of the rejection of claims 1, 3-5, and 9-11 under 35 USC 103, as being unpatentable over Andrea et al. in view of Ueno.

A feature of this invention is the utilization of the two noise canceling microphones that are mounted on the individual boxes of the headphone section for use not only in performing noise cancellation by detecting ambient noise but also to provide signals to be recorded that are detected at the ears of the user thereby recording binaural audio signals in the control circuit section. Thus, it is important that the microphones be on the outside of the headphone boxes to detect the audio signals for subsequent recording as binaural signals.

The claims have been amended hereby to emphasize the above-noted features of the present invention relating to the microphones mounted on the headphone boxes and feeding audio signals to the control circuit section for recording binaural audio signals.

Andrea et al. also relates to a headphone unit in which noise cancellation is provided and employs a so-called feedback sensor 70 that is an in-ear sensor acoustically isolated by way of a plastic tube. A reference element 60 is

arranged on the outside of the headphones and the reference element 60 is termed an external sensor that senses the ambient acoustic noise. As stated in Andrea et al. the in-ear sensor 70 also acts as a microphone in the transmit mode.

Therefore, it is respectfully submitted that not only does Andrea et al. not have any recording or playback devices associated therewith, but the microphones are located not only inside the headphone box but also inside the ear of the user, so as not to be available for use in recording signals in the (not shown) recording/playback section.

Ueno relates to a portable tape recorder and playback unit that has a single jack available for use that can receive a two-channel plug that is attached to a remote control unit that itself has a jack that can have either a speaker or a microphone inserted therein.

It is respectfully submitted that even combining the record/playback operation of Ueno with Andrea et al. that the present invention, as recited in the amended claims, would not be present and, moreover, would not have been rendered obvious, because neither reference has any suggestion of benefits to be had by utilizing noise cancellation microphones on the outside of headphone boxes for use in recording binaural audio signals, as in the presently claimed invention.

The cancellation of claims 13-15 renders moot the rejection thereof under 35 USC 103.

Reconsideration is respectfully requested of the rejection of claims 6-8 under 35 USC 103, as being

unpatentable over Andrea et al. in view of Ueno and further in view of Trompler.

Claims 6-8 depend from claim 5, which for the reasons set forth hereinabove is thought to be patentably distinct over the cited references and, for at least those very same reasons, claims 6-8 are also submitted to be patentably distinct thereover.

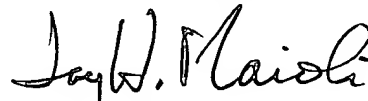
Trompler provides so-called noise limiting earmuffs that are intended to protect the wearer from excessive noise. Nevertheless, Trompler does not provide the two microphones connected to a recording playback device so that combining Trompler with the primary and secondary references would not result in the presently claimed invention.

Accordingly, by reason of the amendments made to the claims hereby, as well as the above remarks, it is respectfully submitted that a noise canceling headphone system that can be also used to be make binaural recordings, as taught by the present invention and as recited in the amended claims, is neither shown nor suggested in the cited references, alone or in combination.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

COOPER & DUNHAM LLP

A handwritten signature in dark ink, appearing to read "Jay H. Maioli". The signature is fluid and cursive, with the first name "Jay" and last name "Maioli" clearly distinguishable.

Jay H. Maioli
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